

03-02-05

DAC *TH*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 Appl. No. : 10/826,140 Confirmation No.: 8755
Applicant : Brandon
Filed : 04/15/2004
10 TC/A.U. : n/a
Examiner : n/a
Docket No. : CIT003
15 Customer No. : 28848

20 Commissioner for Patents
Attn: Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

25 **PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION**

Sir:

In response to the Notice of Missing Parts dated June 28, 2004, the Applicants respectfully request that the Examiner consider the Remarks made below.

30

Remarks

Applicant petitions the Examiner under 37 CFR 1.137(b) to revive the now abandoned application and accept late payment of the application fee, late oath/fee surcharge, and inventor declaration. Pursuant to 35 U.S.C. 41(a)(7), the Applicant has
35 enclosed the proper payment of the required fees, a statement that the entire delay in payment of the fee was unintentional, and the fee for filing a petition to revive an unintentionally abandoned application.

Applicant states, pursuant to the requirements of 37 C.F.R. 1.137(b)(3), that the
40 entire delay in filing the required application fee payment was unintentional.

03/03/2005 AWONDAF1 00000001 10826140

03 FC:2453

750.00 OP

Applicant recently discovered the existence of the Notice of Missing Parts after calling the USPTO on February 23, 2005, to determine the status of the case. Applicant has not received a copy of the Notice of Missing Parts. Upon discovering the existence of the Notice of Missing Parts, Applicant determined that the application would now be
5 abandoned. Therefore, Applicant hereby submits the proper petition to revive an unintentionally abandoned application, as Applicant was unaware of the Notice of Missing Parts.

Applicant's general procedure upon receiving correspondence from the USPTO is
10 to place the item in a bin to be docketed. Next, Applicant will enter the due date and/or date the correspondence was received into Applicant's patent case tracking software. Applicant reviewed the case tracking software page for the present application and found no entry of a Notice of Missing Parts due date or receipt of a USPTO Filing Receipt, which accompanies a Notice of Missing Parts. Therefore, Applicant submits that a
15 Notice of Missing Parts was never received by Applicant. Additionally, as Applicant believes the Notice of Missing Parts was never received as a result of USPTO error, Applicant requests that the enclosed petition fee be waived.

Applicant therefore requests that the application be revived and the late payment
20 of the application fee and inventor declaration be accepted by the Examiner as an unintentional abandonment of the application.

Concluding Remarks:

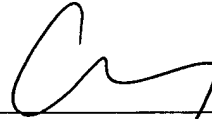
In view of the foregoing, Applicant believes the application is now in condition
25 for examination. Accordingly, early issuance of this application is respectfully requested. Should the Examiner have any questions regarding this response or need any additional information, please contact the undersigned at (310) 589-8158.

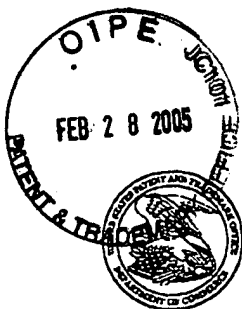
The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-2691. In particular, if this
30 response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an

Appl. No.: 10/826,140
Petition Dated Feb. 28, 2005

extension of time of the number of months necessary to make this response timely filed
and the petition fee due in connection therewith may be charged to deposit account no.
50-2691.

Respectfully submitted,
TOPE-MCKAY & ASSOCIATES

By: 
Cary Tope-McKay
Reg. No. 41,350
Tel.: (310) 589-8158



UNITED STATES PATENT AND TRADEMARK OFFICE

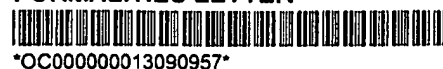
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/826,140 | 04/15/2004 | Brandon | CIT003 |

CONFIRMATION NO. 8755

CARY TOPE-MCKAY
TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

FORMALITIES LETTER



OC000000013090957

Date Mailed: 06/28/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 385 to complete the basic filing fee for a small entity.
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$450 for a Small Entity

- \$385 Statutory basic filing fee.
- \$65 Late oath or declaration Surcharge.

03/03/2005 AWONDAF1 00000001 10826140

01 FC:2001
02 FC:2051

395.00 OP
65.00 OP

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

03/03/2005 AWONDAF1 00000001 10826140

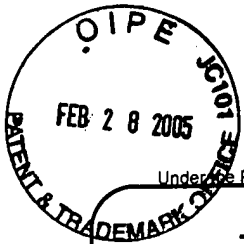
01-FC-2001
02-FC-2051

395.00-OP
65.00-OP

A copy of this notice MUST be returned with the reply.

BH
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY



PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number 10/826,140

Filing Date 04/15/2004

First Named Inventor Brandon

Art Unit n/a

Examiner Name n/a

Total Number of Pages in This Submission

10

Attorney Docket Number CIT003

ENCLOSURES (Check all that apply)

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance Communication to a Technology Center (TC) |
| <input checked="" type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input checked="" type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | Return Receipt Postcard |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application | <input type="checkbox"/> Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | Response to Notice of Missing Parts | |
| | Petition to Revive Unintentionally Abandoned Application | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|--------------------|-------------------------|
| Firm or Individual | Tope-McKay & Associates |
| Signature | |
| Date | 02/28/2005 |

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 02/28/2005

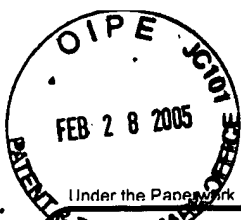
Typed or printed Cary Tope-McKay

Signature

Date 02/28/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1315.00

Complete if Known

| | |
|----------------------|-------------|
| Application Number | 10/8826,140 |
| Filing Date | 04/15/2004 |
| First Named Inventor | Brandon |
| Examiner Name | n/a |
| Art Unit | n/a |
| Attorney Docket No. | CIT003 |

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 50-2691 Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | 500.00 |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

| Fee (\$) | Small Entity Fee (\$) |
|----------|-----------------------|
| 50 | 25 |
| 200 | 100 |
| 360 | 180 |

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|--------------|----------------|----------|---------------|
| 20 | - 20 or HP = 0 | x 25 = | 0 |

HP = highest number of total claims paid for, if greater than 20.

| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|---------------|----------|---------------|
| 3 | - 3 or HP = 0 | x 100 = | 0 |

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|--|----------|---------------|
| 20 | - 100 = 0 | / 50 = 0 (round up to a whole number) x | | |

4. OTHER FEE(S)

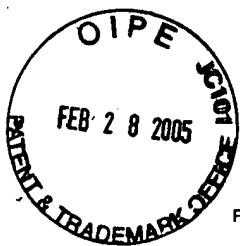
Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition to Revive Unintentionally Abandoned App. Fee & Late Fee 815**SUBMITTED BY**

| | | | |
|-------------------|-----------------|--|--------------------------|
| Signature | | Registration No. (Attorney/Agent) 41,350 | Telephone (310) 589-8158 |
| Name (Print/Type) | Cary Tope-McKay | | Date 02/28/2005 |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Please type a plus sign (+) inside this box ☐
 PTO/SB/01 (12-97)
 Approved for use through 9/30/00. OMB 0651-0032
 Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. Parent Application or PCT Parent Number | Parent Filing Date (MM/DD/YYYY) | Parent Patent Number (if applicable) |
|--|---------------------------------|--------------------------------------|
| | | |

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: ☐ Customer Number 28648 ☐ OR ☐ Registered practitioner(s) name/registration number listed below

| Name | Registration Number | Name | Registration Number |
|------|---------------------|------|---------------------|
| | | | |

☐ Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to: ☐ Customer Number or Bar Code Label ☐ OR ☒ Correspondence address below

| | | | | | |
|---------|----------------------------------|-----------|----------------|-----|----------------|
| Name | Cary Tope-McKay | | | | |
| Address | 23852 Pacific Coast Highway #311 | | | | |
| Address | | | | | |
| City | Malibu | State | CA | ZIP | 90265 |
| Country | USA | Telephone | (310) 589-8158 | Fax | (310) 943-2736 |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| | | | | | |
|--|------------------------|---|----|---------|---------|
| Name of Sole or First Inventor: | | <input type="checkbox"/> A petition has been filed for this unsigned inventor | | | |
| Given Name (first and middle (if any)) | | Family Name or Surname | | | |
| Erik | | Brandon | | | |
| Inventor's Signature | | | | Date | 4-14-04 |
| Residence: City | Pasadena | State | CA | Country | USA |
| Post Office Address | 2300 Loma Vista Street | | | | |
| Post Office Address | | | | | |
| City | Pasadena | State | CA | ZIP | 91104 |
| Country | USA | | | | |

☐ Additional inventors are being named on the 0 supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto